

**BOROUGH OF WIND GAP
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EXECUTIVE SESSION

The Council met from 6:30 p.m. to 7:30 p.m. for Executive Session at Wind Gap Borough Hall.

The Council meeting of the Borough of Wind Gap on Tuesday, September 2, 2008, was called to order at 7:30 p.m. by Council President Scott Parson, at which time he reminded those present that the meeting was being recorded. In attendance were Councilpersons: Jon Faust, Kerry Gassler, Todd Beil, George Hinton, Joe Weaver and Tony Curcio. Also in attendance were Mayor Mitchell D. Mogilski, Sr., Borough Solicitor, Ronold Karasek, Borough Engineer, Brian Pysker and Borough Administrator Louise Firestone.

Scott Parsons informed those present that Council was in Executive Session to discuss the Roberti litigation, the County Bond Issue litigation, Condemnation of the Keenhold property and the street workers' contract negotiation update.

On motion by Jon Faust to settle the Roberti litigation issue at a final cost of \$92,000 or an additional \$36,000 that is owed to Roberti and seconded by George Hinton. Roll call vote taken. In favor: T. Beil, T. Curcio, J. Faust, K. Gassler, G. Hinton, J. Weaver. Abstained: S. Parsons. Motion carried with a vote of 6-0-1.

On motion by Kerry Gassler to pay the remaining outstanding County Bond Issue in the amount of \$23,674.20 taking \$10,000 from the tipping fees the rest out of the street budget and seconded by Tony Curcio. Roll call vote taken. Motion carried unanimously. The Borough will be reimbursed by the County.

Scott reported that the other two issues, Keenhold condemnation and Teamster contract, no action will be taken at this time.

PUBLIC COMMENT

1. Leroy Albanese, West Seventh Street, Wind Gap, stated that Wind Gap Electric is proposing an addition to their existing building on West Seventh Street. He is asking for a waiver for the land development drawing. He would like to have an engineer's review on a site drawing. The addition will be approximately 80' X 60', of which 40' will be office area and the other 40' will be warehouse area. It will be attached to the existing building where there is open space already. Brian Pysker stated that the plan includes new construction of less than 10,000 square feet of new impervious, which means that he is not subject to any storm water requirements through Lehigh Valley Planning Commission. He will be disturbing less than one acre, which does not require him to get any NPDES permit. Based on the scope of this project as currently presented and seen by the Borough Engineer, the only approvals necessary would be from the Borough. Brian would still review the site plan based on the requirements of the subdivision ordinance and the zoning ordinance. Ron Karasek asked Leroy if he had completed a waiver form requesting the waiver. The form is part of the SALDO book as Appendix 11 titled,

Application for Consideration of Modification. Leroy will have this completed and ready for the next meeting that is scheduled for September 16, 2008.

2. Joe Laky, Northampton County GIS. Joe explained that as part of Phase I of the Geographic Information System, he has draft copies of the zoning map of the Borough. The information represented on the maps can be uploaded on the Borough's computers. The staff will have the ability to click on any parcel in the Borough and see the zoning district that the property is in along with any other pertinent information related to that parcel. Joe will set up a time to train the staff. Joe stated that more information could be added to the GIS in Phases as Council sees necessary. Any kind of information that the Borough has can be incorporated into the database. Phase II in Joe's proposal includes adding the infrastructure, manholes, sanitary sewer, storm sewer as-built plans. Joe would plot all the manholes and pipes between them, what kind of pipe it is, the slope, and then if the Borough has the as-built it can be linked to the plan. The street maintenance can be added, the street signs as well. Phase III is to work with the EMS and the Police to track crime, accidents, etc. Ron Karasek informed Council that he has used Mr. Laky in court cases to prepare maps and his work is excellent and Council will be well served by using Mr. Laky. If Council would like, Joe would come to a future meeting and demonstrate with a laptop projection of how the GIS would serve the Borough.

APPROVAL OF MINUTES

On motion by Kerry Gassler to approve the minutes for the meeting of June 17, 2008 and seconded by Joe Weaver. Roll call vote taken. In favor: K. Gassler, G. Hinton, S. Parsons, J. Weaver, T. Beil, T. Curcio. Abstained: J. Faust. Motion carried with a vote of 6-0-1.

On motion by Kerry Gassler to approve the minutes for the meeting of July 7, 2008 and seconded by Joe Weaver. Roll call vote taken. In favor: G. Hinton, S. Parsons, J. Weaver, T. Beil, T. Curcio, Kerry Gassler. Abstained: J. Faust. Motion carried with a vote of 6-0-1.

APPROVAL OF EXPENSES

On motion by Kerry Gassler to approve the expenses for the month of August in the amount of \$27,640.28 and seconded by Tony Curcio. Roll call vote taken. Motion carried unanimously.

SOLICITOR'S REPORT

Ron Karasek reported that all the matters being handled by his law office for the Borough during the month of August are outlined in a report. The report includes the meetings attended in August 2008.

Subdivision Matters: Prepare Easement Agreement for Right-of-Way along Alpha Road – Albanese Minor Subdivision, Receipt, review and administration of SALDO Waiver Requests in Emerald Forest Major Subdivision, Prepare L.D. Improvements Agreement re: Brymac, Inc. – 951 Broadway Car Wash – L.D. Plan.

Land Development Matters: N/A.

Zoning and Other Land Use Matters: Prepare Notice of Ordinance No. 465 and Certificate of Service to Abutting Landowners re: Re-Opening and Re-Dedication of West Seventh Street f/k/a Diamond Avenue.

Developments on Outstanding Litigation: August 1 – Attend Preliminary Injunction Hearing and Negotiate Settlement re: Title Injunction Lawsuit and subsequent attendance at Motions Court to secure Settlement Order.

August 12 – Attendance at Settlement Conference in Roberti Condemnation case.

Preparation and presentation of Motion for Continuance of Jury Trial from September 15 – 19, 2008 to October 20 – 24, 2008 in Roberti Condemnation case.

Court Decisions on Borough Cases: N/A.

Miscellaneous: Prepare Ordinance No. 466, Advertising Notice, e-mailed and enclosure correspondence re: Pension for Office Employees.

Prepare first draft of Borough Ordinance No. 467 (and advertising notice) re: Ordinance No. 467 – 25 mph speed limit on South Broadway (SR 512).

Prepare Borough Resolution No 2008-02, resolution to recognize the Authority of the Fire Company to collect fees, costs and expenses in regard to environmental, hazardous safety or rescue events.

Review various correspondence, subdivision and land development review letters, prepare correspondence, prepare extension agreements and approval forms for subdivision and land development matters, and make and receive telephone calls.

Outstanding Items: Keenhold Condemnation – In process of securing appraisers to determine value of partial taking.

Dentith storm water counterclaim (filed in response to Borough's injunction lawsuit and request for Borough's expenses) – no action taken and remains pending.

Ordinance for Office Staff pension – pending meeting with Principal's Representative.

Ordinance for loitering, begging and panhandling – pending but inactive.

Ordinance for reimbursement of equipment, materials, and supplies in responding to environmental, hazardous, safety or rescue events (police, fire or both?) – pending but inactive.

Ordinance 465 passed last month for West Seventh Street (Diamond Avenue) would take effect today and he has not received any request for a hearing or appeal from any residents who border that street. He stated that during the previous month's meeting there was discussion regarding having the information personally served and the Borough Code indicates that the personal can also mean by certified mail. All certificate of service was filed within that last week to North American Equity Corp, Frank A. Baskar, Leroy and Andrew Albanese, Mr. and Mrs. Stephen E. & Patricia L. Howanitz, and Herman B. & Mark Waldman.

Ron did prepare an ordinance for the new speed limit on Broadway, but he was waiting for additional information regarding a traffic study or engineering study showing why the speed limit should be 30 m.p.h. on SR 512. This ordinance will be ready for next month's meeting.

Ron prepared a resolution for the Wind Gap Fire Company. The resolution would recognize the authority of the Wind Gap Fire Department to seek reimbursement fees, costs and expenses.

On motion by Todd Beil to adopt Resolution 2008-02 which recognize the authority of the Wind Gap Fire Department to seek reimbursement fees, costs and expenses in responding to environmental and/or hazardous spills or events or other safety and rescue recovery incidents and seconded by Kerry Gassler. Roll call vote taken. Motion carried unanimously.

ENGINEER'S REPORT

Brian Pysher reported that he contacted the DEP regarding the Roberti property application. It has been received, but he is not sure when they will review and issue a permit. Louise contacted Sherry Acevedo of the Delaware and Lehigh Heritage Corridor and Sherry contacted the DEP on behalf of the Borough. Sherry was informed that the review would take place and there should be an answer by October 13, 2008. Brian explained the proposed plan includes a fence mounted on the retaining wall. This is based on the concept plan initially done by LandStudies. Council questioned the walkway back to the wetlands and if that is necessary based on the grant award stipulations. Since the grant funding is a greenway project, the sidewalk might have to stay on the plan. Brian is proposing a decorative type fence, but asked Council for direction at this time. Brian to get numbers together for cost.

NEW BUSINESS

1. Brymac – Improvements Agreement. Ron Karasek reminded Council that last month there was an issue with Brymac starting to move dirt on the carwash project. After the meeting, it was determined that they had a demolition permit, so what they were doing was approved. The developer was moving forward with his project and after discussion with the Borough Zoning Officer, Darlene Plank-Turlington, either a cease and desist letters was to be sent along with a letter from Attorney Karasek saying that the project couldn't not continue with an Improvements Agreement and security posted. Last week, the developer, Charles McIntyre, contacted Ron and asked what needed to be done so this project could continue. The agreement has been signed, but the amount of the security posted is being questioned by Ron. He believes that if a project is being built in the Borough, the developer must post money for the entire project. After the project is over, if any portion of the project is going to be dedicated to the Borough and if the Borough agrees to accept it, then only 15% of the improvements have to be posted. He thinks that Brymac is saying that this is a land development plan and that no roads or houses or subdivisions are being built, so the Borough does not need all that money. Brymac is only posting money for the public improvements, which is around \$27,000 and that money has been posted with the Borough. Ron asked Robert Collura to review the amount of the security. Ron stated that from a legal standpoint he is okay with the developer continuing with the project, but they must adhere to the Borough's zoning ordinance and be in compliance with all the necessary permits. Brian to follow up with Bob Collura regarding the amount of money to be posted. Ron recommended that the agreement be approved and signed.

On motion by Todd Beil to approve the Improvements Agreement with Brymac conditioned upon further review by the Borough Engineer regarding the amount of security being posted and if it is determined that more security should be posted that the Borough has a right to ask for those additional security pursuant to the SALDO and the Improvements Agreement and seconded by Kerry Gassler. Roll call vote taken. Motion carried unanimously.

2. MS4 Annual Report – NPDES Permit. Brian Pyscher is working on this report and he will follow up tomorrow.

3. Joan Valley Resignation Letter from the Wind Gap Borough Planning Commission.

On motion by Kerry Gassler to accept the resignation of Joan Valley and send a letter of thanks and seconded by Todd Beil. Roll call vote taken. Motion carried unanimously.

4. Borough Building Generator Replacement. George Hinton reported that the generator downstairs in the Borough building has been there since 1972. It is currently locked out and no parts can be ordered for it. The unit has to be replaced and should be placed outside of the building. This happened last week and no prices have been obtained for a replacement yet. A generator company came to look at it and determined that it was a gas problem. The gas company came in and they said that it is done. They were concerned about health issues because of leakage and fumes in the building. Kerry asked if a grant would be an option. Jon Faust added that the Wind Gap Fire Company has recently applied for a grant to replace their generator. George will get quotes hopefully by the workshop meeting.

5. Waste Management. Kerry Gassler stated that since Waste Management has obtained their expansion permit, has the committee set up a meeting. Tony replied that he spoke to Harry Smith today and is in the process of setting up a meeting. Kerry reminded Council that Waste Management does their budget for the following year right now, so don't wait too long.

6. George Hinton stated that since the Borough Council received a letter from the Beautification Committee regarding the sign on the Gassler property. He suggested that a letter be sent to the committee asking them to move the sign. Tony stated that the purpose of that sign was to do away with all the other signs and was a Boy Scout project. If that sign is to be moved, then all signs should be removed. George replied that the committee approached Council to ask for permission to piggyback that project for upkeep and income. Tony stated that he is not against removing that sign, but suggested being fair and removing all signs. Scott stated that if the owner of the property does not want the sign on his property it needs to be moved and if other signs are illegal they should be removed also. Only signs that are in compliance with the zoning ordinance should remain in the Borough.

On motion by George Hinton to send a letter to the Beautification Committee to remove the sign and what they want to do with it within the sixty days (August 29, 2008) along with a copy of Kerry Gassler's letter and seconded by Joe Weaver. Roll call vote taken. In favor: T. Curcio, J. Faust, G. Hinton, S. Parsons, J. Weaver, T. Beil. Abstained: K. Gassler. Motion carried with a vote of 6-0-1.

Mayor Mogilski informed Council that the businesses pay to advertise on that sign.

PUBLIC COMMENT

Bob Matlock asked if the sign is on Mr. Gassler's property or is on the Borough's right-of-way? Kerry said that it is in the absolute right-of-way, but it is his to maintain and he pays the taxes on that property. Ron Karasek advised that if the sign is in the ultimate right-of-way, then the State, not the Borough, since it is a state road, and if they want to widen that road, the State can say they may not have to pay anything for that property. PennDOT usually has an existing right-of-way which probably extends beyond the curblin and usually the Borough has more.

7. Board Vacancies. Scott Parsons stated that the board vacancies have been advertised in the Borough newsletter and on the Borough website.

OLD BUSINESS

1. Calantoni – Real Estate Tax Assessment Appeal. Ron informed Council that the Calantonis appealed of their assessment because they felt that the assessment on their property was too high. Their appraisal came in at \$9.2 million and the County's appraisal came in at \$10.8 million. The Calantonis said that they would agree to the County's assessed value provided that they get the common ratio factor reduction which has been reduced over the years. The factor is used to balance property values that go up and down because of the market.

On motion by Kerry Gassler to authorize Ronold Karasek to sign off on the assessment stipulation for the Calantoni property and seconded by Todd Beil. Roll call vote taken. Motion carried unanimously.

2. Ordinance 466 Full-time Non-Union, Roth Pension. Ron Karasek explained Ordinance 466 applies to full-time office employees who are not police officers and not union workers. The employee must have one full year of continuous and uninterrupted employment with the Borough. If that is the case, the Borough will contribute into a Roth IRA that is established by the employee. The Borough will be provided the information and the deposit will be made by the Borough. The amount is the same as has been paid to the Borough road crew although it does not have to be and could change. This year that amount is \$275 per month per employee and also indicates that if the employee starts mid-year that would start on the first anniversary of employment. That amount can be increased or reduced or remain the same by way of resolution. If there is a decision to completely eliminate this benefit it must be done by ordinance. Contributions are to be made quarterly and there is not vested right to these contributions and they are at the sole discretion of the Borough.

On motion by Tony Curcio to adopt Ordinance 466 and seconded by Kerry Gassler. Roll call vote taken. Motion carried unanimously.

3. Handicap Parking – Ray Borger. He has provided all the necessary paperwork to the office.

On motion by George Hinton to approve the handicap parking spot for Ray Borger at 22 South Broadway, Wind Gap and seconded by Jon Faust. Roll call vote taken. Motion carried unanimously.

4. Jon Faust reported that the building meeting was held. The committee came up with several ideas and plans. A questionnaire will be sent out to all the affiliations to determine needs and space requirements. Another meeting will be held shortly.

Scott reminded those present that the next meeting will be held on September 16, 2008.

On motion by Tony Curcio to adjourn the meeting of September 2, 2008 and seconded by Joe Weaver Council agreed unanimously. The meeting of September 2, 2008 adjourned at 8:56 p.m.

Louise Firestone, Borough Administrator